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Office of The Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Dear Secretary:

Reply Comments on FCC 96-93 in CC Docket No. 96-45 are enclosed with this submission on behalf of the following organizations that are included in the **Access to Communications for Education [ACE] Coalition** for purposes of this filing:

Alaska Society for Technology in Education
American Association for Adult and Continuing Education
American Psychological Association
Association for Educational Communications & Technology
Center for Language Minority Education and Research
(California State University, Long Beach, California)
Connecticut Educators Computer Association
Council for American Private Education
Council of the Great City Schools
Douglass Policy Institute
Florida Association for Computers in Education
Half Hollow Hills School District (Dix Hills, New York)
Hawaii State Department of Education (Office of Information and Telecommunications)
International Society for Technology in Education
Iowa Computer Using Educators
ISTE Special Interest Group on Telecommunications
National Association of Secondary School Principals
Northwest Council for Computer Education
Pacific Southwest Regional Technology Consortium
Pennsylvania Association of Educational Communications and Technology
Public Service Telecommunications Corporation
Quality Education Data, Inc., (A Division of Peterson's)
South Central Regional Technology in Education Consortium
United States Distance Learning Association
West Virginia Computer Using Educators

If you have any questions about this filing, please contact us at the ISTE USA National Policy Office, (703) 351-5243.

Sincerely,

Dennis L. Bybee, Ph.D.
Associate Executive Officer

Enclosure: FCC 96-93 Reply Comments

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In the Matter of)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service [FCC 96-93])
)

REPLY COMMENTS OF THE ACCESS TO COMMUNICATIONS
FOR EDUCATION [ACE] COALITION

1

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1. The Access to Communications for Education [ACE] Coalition¹ respectfully forwards the following responses to comments filed by others in respect to Universal Service rulemaking for school, classroom and library telecommunications access which is mandated in Section 254 of the Telecommunications Act of 1996²:

a. Response to **United States Telephone Association**. The Joint Board and Commission are requested to **completely disregard comments and funding mechanisms** proposed for the establishment and operation of universal services for schools and libraries by the USTA in their 4-12-96 filing on Docket No. 96-45. USTA comments in Section II, pages 6-10 are totally inconsistent with the most basic and explicit provisions of the Act as follows:

(1) Establishes Barriers. Section 254(h)(1)(B) requires "... All telecommunications carriers ..." to "... provide services to elementary schools, secondary schools, and libraries for educational purposes at rates less the amounts charged for similar services to other parties." It does NOT allow carriers to **refuse to provide such services** if they believe that the requesting schools/libraries haven't properly considered any arbitrary set of preconditions such as the "seven major items [that USTA suggests] must be considered and included in any effort to provide special

¹. The Access to Communications for Education [ACE] Coalition is made up of the *International Society for Technology in Education* [ISTE] and other organizations listed in Appendix A.

². The Telecommunications Act of 1996, PL 104-104, 110 Stat. 56(1996) (to be codified at 47 U.S.C 151 et seq) as reported in the Congressional Record of Proceedings and Debates of the 104th Congress, Second Session, Vol. 142, No. 13, dated Wednesday, January 31, 1996, pgs. H1078-79, H1082-83, H1104-06, H1111-13, and H1135.

telecommunications services to qualified schools and libraries...".³

(2) Conditional Definition of "Bona Fide" Request. The FCC and the public service commissions of the various States must not adopt any rule(s) which make provision of services to school and library consumers conditioned upon any arbitrary set of internal business operations as suggested by the USTA (i.e., "develop a comprehensive plan for funding, implementing and covering the ongoing costs of the seven..."⁴ major items USTA believes must be considered).

Any school or library official authorized to obligate funds for telecommunications services must be deemed capable of making a "bona fide request" for such services; and, any such request must be treated as "bona fide" by all telecommunications carriers.⁵

(3) Establishment of Fund/State Agency. USTA's suggestion that the FCC establish a separate universal service fund based on the **presumed service requirements** of schools and libraries as identified by non-educators in the "KickStart Initiative" and administered by a "State agency" with presumed jurisdiction is totally unacceptable and inconsistent with the Act's provisions. The Act provides for "services at rates less than what is charged to any other parties" and for carriers to receive credits or reimbursement for providing discounts on such services as schools/library consumers might request. The Act includes NO PROVISIONS or CONDITIONS under which any Federal, State or local

³ USTA Comments, filed 4-12-96 on Docket 96-45, page 7

⁴ *ibid* #3, page 8

⁵ See ACE Coalition previous response to NPRM Question 85

agency may receive and arbitrarily distribute universal service funds to schools/libraries based on anything such as the USTA suggested criteria that "... the individual [schools/libraries have] plans to ensure that all the components [e.i., the major seven suggested by USTA] are included and funding for each is determined."⁶

b. Response to **National School Boards Association, et al.** The ACE Coalition concurs in most of the comments that are included in the NSBA, et al filing. The Joint Board is encouraged to carefully consider and adopt the NSBA, et al's recommendation that **special services be "broadly defined to include a full range of service options"**.⁷ However, it is requested that the Joint Board and Commission NOT accept the following specific recommendations that are also included in the NSBA, et al filing:

(1) Incremental Cost. Incremental cost is a methodology which was considered and rejected by the United States Senate in its deliberations on education access provisions of S. 652 wherein "rates less than" and "discount" language was substituted in Section 254(h)(1)(B) of PL 104-104. Therefore, incremental cost in any form is unacceptable (i.e., Total Service Long Run Incremental Cost.)⁸

(2) Competitive Bids. The Act does not require or explicitly permit the FCC or State regulatory commissions to restrict local school or library requests for services to a

⁶ ibid #3, pg. 9

⁷ National School Boards Association, et al, Comments filed on Docket 96-45, dated April 10, 1996, pg. iii

⁸ ibid #7, pg. 19

competitive bidding process as suggested by the NSBA, et al on page 22 of their filing. Such a restriction is not included in the Act and would constitute an unnecessary **unfunded mandate** with administrative costs to some schools and libraries being more than the anticipated annual cost of the requested telecommunications services. Schools and libraries must be allowed to request telecommunications services in whatever manner they deem is appropriate and consistent with their own internal purchasing rules/regulations. This could be with a simple purchase order(s) or by a more formal request for bids. But, in any case, the requesting process should be at the discretion of the requesting agency.

c. Response to **Netscape Communications, Inc.** The Joint Board **must create a separate definition of special services** for schools and libraries to which lowest rates and discounts apply in accordance with Section 254(h)(1)(B) of the Act. And, the definition must include **all available telecommunications services** at appropriately discounted rates in order to accomplish the explicit and implicit intent of the Congress that "elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services" for educational purposes as described in Section 254(h)(1)(B) and 254(h)(2)(A).

The importance of affordable telecommunications access and nature of cost as the major factor limiting school access is eloquently described by US Secretary of Education Richard W. Riley; and, the intent of Congress on this matter is reinforced by Senator Olympia J. Snowe, et al in their comments on CC Docket No. 96-45.

In addition to establishing a separate definition of special services to which discounts would apply for schools and libraries, the Joint Board should also use Section 706 to further stimulate internet access for schools and libraries as suggested by Netscape Communications, Inc. in their filing.

d. Response to **American Federation of Teachers and NAACP.**

The Ace Coalition supports NAACP's concern about minority access and AFT's suggestion that "lifeline" or "equity" discount rates be made available to schools and libraries in geographic areas where there are large numbers of low-income students. Lifeline or equity discount rates are recommended and supported by reference to Principle Three--ACCESS IN RURAL AND HIGH COST AREAS which states that "Consumers in all regions of the Nation, including *low-income* consumers and those in rural and high insular, and high cost areas, should have access to telecommunications and information services...". This principle should be applied here to ensure that essential services are provided to schools and libraries in *low-income* communities as well as to those in more affluent communities. In our own comment filing, the ACE Coalition suggests that this type of special consideration be extended to schools located in nationally recognized "**empowerment zones**"⁹ rather than to funds being distributed in accordance with Title I-type formulas.

e. Response to **American Association for Adult and Continuing Education (AAACE).** The ACE Coalition supports comments by the AAACE with respect to the concept that discounted rates and

⁹ ACE Coalition filing on CC Docket 96-45, dated 4/12/96, See Appendix B: A Listing of President Clinton's 1996 Empowerment Zones

affordable access provisions of the Telecommunications Act of 1996 applied to schools and libraries should cover all educational programs offered by these eligible entities. More specifically, discounted rates and affordable access provisions must apply to all educational programs offered by eligible entities including those routinely provided by schools and/or libraries for under-educated adults in school, library, and/or other appropriate community settings (e.g., adult high school completion programs.)

2. Corrections/Clarifications. The following additional information is provided to update and clarify the ACE Coalition's initial Comments.

a. New Members. The following new members have joined the ACE Coalition, ascribe to comments provided in the initial filing, and are now represented in the revised membership list provided at Appendix A: Alaska Society for Technology in Education, Connecticut Educators Computer Association, National Association of Secondary School Principals, Northwest Council for Computer Education, and Quality Education Data, Inc. (A Division of Peterson's).

b. Interstate/Intrastate Cooperation¹⁰. In setting discounts, State regulatory commissions are clearly responsible for intra-state service discount rates; and, the Federal Communications Commission is clearly responsible for inter-state service discount rates. However, it will probably be very difficult to determine which services are, in fact, exclusively intra- or inter-

¹⁰ NPRM Question 71 on "Support Mechanism(s) and Question 83 with respect to "Harmonizing Federal and State Discounts"

state services; and, State/Federal regulatory cooperation on setting discounts and managing universal service obligations will be needed to facilitate implementation of rules to achieve common universal service objectives.

Wherever possible -- and without diminishing State regulatory authority, Federal-State cooperation should take the form of a single set of telecommunications service discounts for schools and libraries with a single automated universal service support fund that could be maintained with *separate accounts for each State*. The universal service obligation of all telecommunications carriers should include a prorata contribution (i.e., based on gross annual revenues or telecommunications industry market share) to support administration of these universal service fund(s).

c. Table of Contents. As an amendment to our initial filing of comments on April 12, 1996, a "Table of Contents" for those comments is provided herewith as Appendix B.

3. Conclusions. The Coalition believes that the Federal-State Joint Board on Universal Services should make recommendations to the Commission that are consistent with these comments; and, in particular with respect to the following principles:

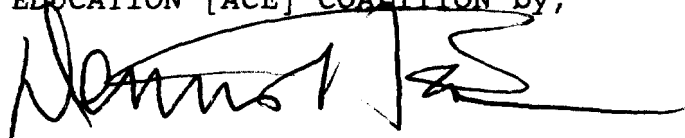
a. Basic telecommunications services must be provided under universal services for educational purposes with the *"point-of-presence"* (i.e., final point at which services are provided) being to every school office, classroom and library in America;

b. Universal service for educational purposes should support State and local decision-making about what services should

be provided by including *all available telecommunications services* at appropriately discounted rates; and that

c. The determination of how the definition of universal services should evolve must be *made by school, classroom, and library consumers through their individual and collective purchases of telecommunications services offered to them at discounted rates by all telecommunications providers.*

Respectfully submitted for the
ACCESS TO COMMUNICATIONS FOR
EDUCATION [ACE] COALITION by,

A handwritten signature in black ink, appearing to read "Dennis L. Bybee", with a stylized flourish at the end.

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May 8, 1996

Appendix A. Organizations Represented In This Filing By The
Access To Communications For Education [ACE] Coalition

Alaska Society for Technology in Education
American Association for Adult and Continuing Education
American Psychological Association
Association for Educational Communications & Technology
Center for Language Minority Education and Research (California
State University, Long Beach, California)
Connecticut Educators Computer Association
Council for American Private Education
Council of the Great City Schools
Douglass Policy Institute
Florida Association for Computers in Education
Half Hollow Hills School District (Dix Hills, New York)
Hawaii State Department of Education (Office of Information and
Telecommunications)
International Society for Technology in Education
Iowa Computer Using Educators
ISTE Special Interest Group on Telecommunications
National Association of Secondary School Principals
Northwest Council for Computer Education
Pacific Southwest Regional Technology Consortium
Pennsylvania Association of Educational Communications and
Technology
Public Service Telecommunications Corporation
Quality Education Data, Inc., (A Division of Peterson's)
South Central Regional Technology in Education Consortium
United States Distance Learning Association
West Virginia Computer Using Educators

Appendix B. Table-of-Contents for the 4-12-96 ACE Coalition
Comments

COMMENTS OF THE ACCESS TO COMMUNICATIONS
FOR EDUCATION [ACE] COALITION

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